THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24249 OF 1998

DATE: 18.12.2007

Between :

1. Sri P. V. Narayana Rao and another. …. Petitioners

And

1. The District Collector, Prakasam District, Ongole., and another. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24249 OF 1998

ORDER :

The petitioners herein claim to be the joint owners of about 80 acres of land situated in Sy.Nos.218/4, 218/5 and 218/7 of Thuvvapadu Village, Konakanamitla Mandal, Prakasam District. The said village initially was a part of Venkatagiri Zamin Estate and after the estate was taken over by the Government under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'Estates Abolition Act') pattas were granted in favour of the petitioners by the Settlement Officer. While so, in the year 1985 the land in question was occupied by the Forest Department for growing social plantations treating the same as Government land. Aggrieved by the same, the petitioners filed W.P.No.11947 of 1988 contending inter alia that the action of the respondents in occupying the land without following due process of law is arbitrary and illegal. The said writ petition was allowed by this Court by order dated 17.2.1989 with a direction to the respondents therein not to interfere with the possession of the petitioners without taking appropriate proceedings according to law. Pursuant thereto, the petitioners made representations requesting the respondents to re-deliver the land occupied by the Forest Department. Having considered the same, the Collector and District Magistrate, Prakasam District, Ongole by letter dated 11.8.1992 directed the Mandal Revenue Officer, Konkanamitla to hand over the possession of the land to the petitioners after cutting the plantations raised by Social Forestry Department.

However, since the petitioners were not put in possession, this writ petition was filed on 27.8.1998 seeking a declaration that the action of the respondents in not delivering the possession of the land in question along with usufruct thereof is arbitrary and illegal.

Pursuant to the Rule Nisi ordered, a counter-affidavit was filed by the 2nd respondent on 20.10.1998 stating that the possession of the land was already handed over to the petitioner on 4.10.1998.

Though the said fact has not been disputed by the petitioner, the learned Counsel for the petitioner contended that as per the order of this Court in W.P.No.11947 of 1988 the respondents are liable to deliver the possession of the land in question along with usufruct thereof. The learned Counsel for the petitioner submitted that while the lands in question were in possession of the Forest Department, Eucalyptus plantation was raised and the usufruct was put to public auction and therefore there shall be a direction to the respondents to pay the amounts realized to the petitioners.

I do not find any substance in the above contention of the learned counsel for the petitioners.

This Court while allowing W.P.No.11947 of 1988 held that the possession of the petitioners to an extent of 50 acres in Sy.Nos.218/5 and 218/7 should not be disturbed without taking appropriate proceedings according to law. There was neither any adjudication about the entitlement of the petitioners with regard to the usufruct from the plantations raised by the Forest Department nor there was any direction for payment of the same to the petitioners.

In the circumstances, no Mandamus can be issued compelling the respondents to pay the amounts said to have been realized by sale of usufruct from the lands in question. However, this shall not preclude the petitioners to work out the appropriate common law remedy for redressal of their grievance, if any.

Writ Petition is accordingly disposed of. No costs.

G. ROHINI, J.

Dt. 18-12-2007
gbs
Note:- Furnish CC in 3 days.